

PUBLIC CHAPTER NO. 908

SENATE BILL NO. 2624

By McNally, Kilby

Substituted for: House Bill No. 2668

By Hackworth

AN ACT to amend Tennessee Code Annotated, Title 24, Chapter 9, relative to enact the "Uniform Interstate Depositions and Discovery Act".

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 24, Chapter 9, is amended by designating the existing language as Part 1 and by adding the following new Part 2:

Section 24-9-201. This part shall be known and may be cited as the "Uniform Interstate Depositions and Discovery Act".

Section 24-9-202. As used in this part, unless the context otherwise requires:

(1) "Foreign jurisdiction" means a state other than Tennessee.

(2) "Foreign subpoena" means a subpoena issued under authority of a court of record of a foreign jurisdiction.

(3) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation, government or governmental subdivision, agency or instrumentality, or any other legal or commercial entity.

(4) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, federally recognized Indian tribes, or any territory or insular possession subject to the jurisdiction of the United States.

(5) "Subpoena" means a document, however denominated, issued under authority of a court of record requiring a person to:

(A) Attend and give testimony at a deposition;

(B) Produce and permit inspection and copying of designated books, documents, records, electronically stored information, or tangible things in the possession, custody, or control of the person; or

(C) Permit inspection of premises under the control of the person.

Section 24-9-203.

(a) A party may submit a foreign subpoena to a clerk of court in the county in which discovery is sought to be conducted in this state. The request for and issuance of a subpoena in this state under this part shall not constitute making an appearance in the courts of this state.

(b) When a party submits a foreign subpoena to a clerk of court in this state, the clerk, in accordance with the rules of court, shall promptly issue a subpoena for service upon the person to which the foreign subpoena is directed. The subpoena shall incorporate the terms used in the foreign subpoena and contain or be accompanied by the names, addresses, and telephone numbers of all counsel of record in the proceeding to which the subpoena relates and of any party not represented by counsel.

Section 24-9-204. A subpoena issued by a clerk of court under § 24-9-203, shall be served in compliance with the Tennessee rules of civil procedure relative to service of process.

Section 24-9-205. When a subpoena issued under § 24-9-203, commands a person to attend and give testimony at a deposition, produce designated books, documents, records, electronically stored information, or tangible things, or permit inspection of premises, the time and place and the manner of the taking of the deposition, the production, or the inspection must comply with the Tennessee rules of civil procedure relative to discovery.

Section 24-9-206. An application to the court for a protective order or to enforce, quash, or modify a subpoena issued by a clerk of court under § 24-9-203, shall comply with the applicable rules or statutes of this state and be submitted to the court in the county in which discovery is to be conducted.

Section 24-9-207. If the court grants a motion to modify or quash a subpoena issued pursuant to this act, the court, in its discretion, may award the party subpoenaed its reasonable attorney's fees and expenses incurred in defending against the subpoena. A final order of the Court awarding attorney's fees and expenses shall have the status of a judgment entitled to full faith and credit under the Constitution of the United States. If the court sustains the subpoena as issued, the court in

its discretion may award the prevailing party its reasonable attorney's fees and expenses.

SECTION 2. Tennessee Code Annotated, Section 24-9-103, is amended by deleting the section in its entirety.

SECTION 3. This act shall take effect on July 1, 2008, the public welfare requiring it and shall apply to requests for discovery in cases pending on such date.

PASSED: April 24, 2008



RON RAMSEY
SPEAKER OF THE SENATE



JIMMY NAIFEH, SPEAKER
HOUSE OF REPRESENTATIVES

APPROVED this 14th day of May 2008



PHIL BREDESEN, GOVERNOR